

**GRANT & EISENHOFER P.A.**

Olav A. Haazen (OH7788)  
Alice Y. Cho (AC0728)  
485 Lexington Ave., 29th Floor  
New York, NY 10017  
Tel: (646) 722-8500  
[ohaazen@gelaw.com](mailto:ohaazen@gelaw.com)  
[acho@gelaw.com](mailto:acho@gelaw.com)

*Attorneys for the Applicants*

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re *Ex Parte* Application of CI INVESTMENTS INC., ACTING IN ITS CAPACITY AS MANAGER AND TRUSTEE FOR AND ON BEHALF OF FIRST ASSET MORNINGSTAR INTERNATIONAL VALUE INDEX ETF; LIGHTHOUSE INVESTMENT PARTNERS LLC; and STICHTING BEDRIJFSTAKPENSIOENFONDS VOOR DE MEDIA PNO for an order pursuant to 28 U.S.C. § 1782

Misc. Action No.: 24-426

***EX PARTE APPLICATION FOR  
ORDER PURSUANT TO 28  
U.S.C. § 1782***

Applicants CI Investments Inc., acting in its capacity as manager and trustee for and on behalf of First Asset Morningstar International Value Index ETF; Lighthouse Investment Partners LLC; and Stichting Bedrijfstakpensioenfonds voor de Media PNO (“Applicants”) respectfully make this *ex parte* Application for an order, pursuant to 28 U.S.C. § 1782, authorizing the Applicants to serve subpoenas for deposition testimony and the production of documents on Promontory Financial Group LLC (“Promontory”) for use in a foreign litigation (the “Application”). This Application is supported by a Memorandum of Law, Declaration of Alice Y. Cho, Esq., dated September 6, 2024 (“Cho Declaration”), and exhibits thereto, and Declaration of Lotte Noer, Esq., dated September 6, 2024, and exhibits thereto, all filed concurrently herewith. A proposed order is attached hereto and the subpoenas with Schedule A’s are attached to the Cho Declaration as Exhibits I and J.

Applicants seek discovery from Promontory for use in damages proceedings on behalf of Grant & Eisenhofer P.A.’s clients against Danske Bank A/S (“Danske”) in two Danish civil courts of the first instance in Copenhagen, Denmark (collectively, the “Danish Actions”). The Danish Actions were initiated on March 14, 2019, with several waves of additional claims filed between October 2019 and February 2021, bringing the total number of claims in Grant & Eisenhofer’s claimant group to over 300 alleging combined losses of over \$1 billion. Most claims in the Danish Actions are pending before the Eastern High Court of Denmark, while about a third of the claims are stayed before the lower Copenhagen City Court.

This Application fulfills the requirements of Section 1782. Promontory has an office at 280 Park Ave #11F, New York, NY 10017 and can thus be found in this district. Promontory is not a party to the Danish Actions, which places it beyond the Danish courts’ jurisdictional reach, whereas the Applicants *are* claimants in the Danish Actions – and thus each an “interested person” for purposes of Section 1782 – and the discovery they seek is for use in the Danish Actions. The Applicants are not using this Application to circumvent foreign proof-taking restrictions of Danish courts nor other policies of Denmark or the United States, and Danish courts are known to be receptive to U.S. court assistance. Finally, the discovery sought is highly relevant to the Danish Actions and is neither burdensome nor unduly intrusive. *See Intel Corp. v. Advanced Micro Devices, Inc.*, 542 U.S. 241, 262-65 (2004).

Section 1782 applications are commonly made and granted *ex parte*, with any privilege issues raised and resolved through a motion to quash made after a subpoena has been authorized and issued. *See, e.g., Gushlak v. Gushlak*, 486 F. App’x 215, 217 (2d Cir. 2012).

Granting this Application would further the twin aims of the Section 1782 statute of providing an efficient means of assistance to participants in international litigation, like the

Applicants, and encouraging foreign countries like Denmark to provide similar means of judicial assistance to U.S. courts and litigants. *See Euromepa S.A. v. R. Esmerian Inc.*, 51 F.3d 1095, 1097 (2d Cir. 1995).

WHEREFORE, the Applicants respectfully request that this Court enter an Order:

1. granting the Application for discovery and permitting the issuance of subpoenas substantially in the form of Exhibits I and J to the Cho Declaration submitted in support of the Application; and
2. granting such other and further relief as the Court deems appropriate.

Dated: September 13, 2024  
New York, New York

Respectfully submitted,

By: /s/ Olav A. Haazen

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